

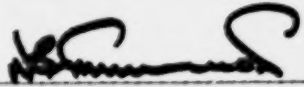
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**DEC 22 1982**  
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CLERK

No. 82 - 5773

IN THE SUPREME COURT OF THE UNITED STATES  
October Term, 1982

IN THE MATTER OF	)	
	)	
CONNIE MARIE MOORE and	)	<u>MOTION TO DISMISS</u>
	)	
DONNIE LEE MOORE,	)	
	)	
Minors.	)	

The Guilford County Department of Social Services respectfully requests that the Court dismiss this appeal on the ground that the appeal is not within this Court's jurisdiction and on the ground that the case does not present a substantial federal question.

  
\_\_\_\_\_  
William B. Trevor  
Guilford County Attorney  
Counsel for the Guilford County  
Department of Social Services  
P. O. Box 3427  
Greensboro, N. C. 27402  
Phone: (919) 373-3852

IN THE SUPREME COURT OF THE UNITED STATES

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IN THE MATTER OF                   )  
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CONNIE MARIE MOORE AND            )  
DONNIE LEE MOORE,                 )  
                  Minors.            )  
                                      )  
LILLIE RUTH MOORE,                )  
                  Appellant,        )  
                                      )  
                  vs.                 )  
                                      )  
GUILFORD COUNTY DEPARTMENT       )  
OF SOCIAL SERVICES,                )  
                  Appellee.         )

ON APPEAL FROM THE SUPREME COURT OF NORTH CAROLINA  
RESPONSE OF THE APPELLEE, GUILFORD COUNTY DEPARTMENT OF SOCIAL  
SERVICES TO THE APPELLANT'S JURISDICTIONAL STATEMENT.

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William B. Trevorrow  
Guilford County Attorney  
Counsel for the Guilford County  
Department of Social Services  
P. O. Box 3427  
Greensboro, N. C. 27402  
Phone: (919) 373-3852

Margaret A. Dudley  
Deputy County Attorney  
P. O. Box 3427  
Greensboro, N. C. 27402  
Phone: (919) 373-3852

I. THE TERMINATION OF THE APPELLANT'S PARENTAL RIGHTS PURSUANT TO NORTH CAROLINA GENERAL STATUTE 7A-289.32 DID NOT DENY HER DUE PROCESS OF LAW IN THAT SAID STATUTE IS NOT UNCONSTITUTIONALLY VAGUE AND THAT STATUTE'S REQUIREMENT THAT APPELLANT SHOW A SUBSTANTIAL CHANGE IN THE CONDITIONS THAT LED TO HER CHILDREN'S REMOVAL FOR NEGLECT WAS NOT AN IMPERMISSIBLE SHIFTING OF THE BURDEN OF PROOF.

II. THE TERMINATION OF APPELLANT'S PARENTAL RIGHTS IN THE ABSENCE OF THE ANNUAL JUDICIAL REVIEW MANDATED BY NORTH CAROLINA GENERAL STATUTE 7A-657 DID NOT VIOLATE THE APPELLANT'S RIGHT TO DUE PROCESS OF LAW.

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### STATEMENT OF THE FACTS

Mrs. Lillie Ruth Pennington Moore, the appellant-respondent, is the mother of Connie Marie Moore and Donnie Lee Moore, born July 27, 1968. In December of 1973, Mrs. Moore signed a dependency petition and the Guilford County Department of Social Services placed the children in foster care on an emergency basis while Mrs. Moore entered L. Richardson hospital for psychiatric treatment. Mr. Moore had been arrested on an assault charge brought by his wife. During the period that Mrs. Moore was in the hospital and immediately thereafter, the Social Worker made a number of visits to see Mrs. Moore and counseled with her, trying to help her decide what she wanted to do. Mrs. Moore decided that she did not want to return to her husband and expressed a desire to live separately from him. The social worker assisted Mrs. Moore in applying for Supplemental Security Income, arranged for emergency financial assistance until the Supplemental Security Income benefits could begin, and located an apartment for Mrs. Moore. The Moores reconciled in January, 1974 and the Court ordered the children returned to them. Both before and after the children came back, the social worker stressed the importance of the family's not living with relatives, of separate rooms for the children, and of continued family stability for several months. The social worker attempted to convey to the Moores that separate housing was insufficient for the Department of Social Services to recommend that custody of the children be given to them.

Throughout the time that the social workers were involved with Mr. and Mrs. Moore, there was counseling in terms of family stability, family organization, and parenting skills. Since Mrs. Moore could not read or write, and she felt that this was a detriment to her obtaining employment and perhaps separating from Mr. Moore, it was suggested to her that Guilford Technical Institute could offer adult basic education or that private tutoring could be arranged. Mrs. Moore was referred to the Vocational Rehabilitation Office for assistance in locating a job or furthering her education, but she never followed through on these referrals.

During the period from February through June of 1974, the department's service plan was to work on family disorganization, to try to rectify the

conditions that had resulted in numerous complaints of neglect and or abuse, lack of parental guidance for the children, and lack of parental support. The parents responded with very little follow through and had difficulty keeping appointments. At Mrs. Moore's request, a social worker arranged for the children to have their pre-school inoculations. On February 21, 1974, the custody of the children was returned to their parents.

When the children began school, there were reports that Connie was disruptive in class, used profane language, hit and spit other children, and acted out sexual intercourse. She also complained of vaginal pain. On November 15, 1974, the Department of Social Services was notified that the teacher or the school had sent several notes home asking that the parents come in to discuss the situation, with no response. A registered letter to the Moores had been sent from the school asking them to come in. The principal ultimately went out to the Moores home and took them to the school for a conference.

There was very little follow through on the medical needs of the children. The social worker talked with Mrs. Moore about Connie's sexually acting out and her complaints of vaginal pain. Mrs. Moore was told that it was her responsibility to see that the children were attended to and their medical needs met. On November 15, 1974, the social worker took Mrs. Moore and Connie to the clinic and Connie was found to have an inflamed vagina. A neglect petition was signed that day. The social worker urged Mr. Moore to get employment and counseling for his drinking problem and urged Mrs. Moore to go to Guilford Technical Institute to get more skills and to be more independent.

At the hearing in December, the parents were represented by counsel. Custody of the children was placed with the Department of Social Services with Donnie to remain in the home under the Department of Social Services' supervision. Although Donnie was reported as sleeping a lot when he began school, there were no reports of disruptive behavior by him or of specific instances of neglect.

When Mr. Moore evinced hostility to the social worker then on the case, another social worker, Richard Gainer, took over on April 1, 1975. Mr. Gainer familiarized himself with the Moores' record at the Department of Social Services prior to his first visit with the family, a few days before a scheduled court hearing concerning Donnie's custody. When Mr. Gainer

arrived for his first visit, he discovered that the Moores were facing eviction and Mr. Moore was in hiding because he expected to be arrested for failing to comply with a court order to pay a sum of money. Mr. Moore, according to Mr. Gainer, the social worker, was quite hostile and was drinking heavily around this time.

Since 1975, the Moores have had sixteen different addresses.

The Guilford County Department of Social Services offered the following services to the Moores: money for rent on a mobile home and an apartment, fuel oil, medication, and referrals to other human service agencies for help.

Mrs. Moore's visiting schedule with the children since they entered foster care has been as follows:

1. December 31, 1974
2. August 5, 1975
3. October 3, 1975
4. November 10, 1975
5. July 28, 1976
6. July 26, 1979 - Connie  
July 31, 1979 - visit for Donny scheduled
7. March 31, 1980
8. June 17, 1980 - Connie
9. June 24, 1980 - Donnie
10. July 25, 1980 - Connie
11. September 11, 1980 - Connie

There were no visits from July of 1976 until July of 1979. All of the 1980 visits were had after the petition to terminate parental rights was filed.

From December, 1974, to the time of the hearing, Connie had been in either seven or nine foster homes, in North Carolina Memorial Hospital for psychiatric treatment, and Thompson Children's Home. Between May, 1980, when she left Thompson's, and the termination hearing in September, she had been in two homes.

After the children were removed, Mr. and Mrs. Moore continued to have economic and marital difficulties. They moved frequently and applied to the Department of Social Services for help in finding housing and for money. In December, 1975, the Moores were in court on their Motion to get back their children.

On July 2, 1980, Mrs. Moore asked the social worker how much money she should pay for the children's support. The worker suggested fifteen dollars per week. Mrs. Moore suggested that she give forty dollars, however, she never paid any child support. Mrs. Moore had never given the children any gifts of any kind during their stay in foster care until 1980.

The Guilford County Department of Social Services paid Thompson's Children's Home \$28,883.96 for Connie's care. The foster parents are paid \$142.50 per month, and the children receive medicaid. The Department furnished their clothing. The social worker did keep Mrs. Moore informed of the children's progress in school, their health, and the children's concern about their parents.

During 1975, visits with the mother were not encouraged because she was very unstable. By 1979, the Department of Social Services had decided that adoption was in the children's best interest, but never refused the children the opportunity to visit with their parents.

Since Mrs. Moore's return to Guilford County in February of 1980, she has not applied for any social services benefits. Since that time efforts have not been focused on strengthening parental ties because proceedings to terminate parental rights had been instituted, however, there have been no efforts to negate or weaken the parental ties either.

Although much improved, Connie still has some behavior problems and is slow academically. She is in special education classes. On February 8, 1980, Mrs. Moore came to the Department of Social Services and said that she was now in a position to take care of the children. She was going to move in with a brother in Ashe County who had agreed to take both of the children. She was not divorced. She later wondered if the brother was willing to have children with discipline problems, and she stated that she did not know if she could handle Connie's problems.

Mrs. Moore stated that she had not been actively involved with the children but had no answer to the social worker's inquiry of why she had made no efforts to write. Mrs. Moore has two other children who live in Pennsylvania with whom she communicated at Christmas in 1979 but when asked why no effort was made to communicate with Connie and Donnie, she had no response.

Mrs. Moore was referred to the Mental Health Center by court order and has attended on a monthly basis since April 1, 1980. She stated that the only jobs that she could perform were maid and dishwasher although she would like to work in a factory but has no experience.

Before Mrs. Moore went to live in the mountains, the Department of Social Services helped her with 1) housing, 2) food, 3) medicine, 4) medical care, and 5) financial assistance yet she did not ask the Department of Social Services once to help her do anything about the children. A good parent,

according to Mrs. Moore, should make children mind, see that they get a good education, provide a decent clean home, and food. The Department of Social Services accepted collect calls from Mrs. Moore at anytime.

THE APPELLANT HAS NOT BEEN DENIED DUE PROCESS OF LAW BECAUSE NORTH CAROLINA GENERAL STATUTE 7A-289.32 IS NOT UNCONSTITUTIONALLY VAGUE.

On September 25, 1980, the appellants parental rights were terminated pursuant to North Carolina General Statute 7A-289.32(2), (3), (4). This decision was upheld by the North Carolina Supreme Court on July 13, 1982. The appellant contends that the decision of the trial court violated her due process rights. The initial question for consideration is what is due process? Applying the due process clause is an uncertain enterprise which must discover what fundamental fairness consists of in a particular situation by first considering an irrelevant precedent and then by assessing the several interests that are at stake. Due process has never been, and perhaps can never be precisely defined, but the essential element is fundamental fairness. The proceedings whereby Mrs. Moore's parental rights were terminated were fundamentally fair.

Due process has a dual significance as it pertains to procedure and substantive law. As to procedure it means notice and an opportunity to be heard and to defend in an orderly proceeding adapted to the nature of the case before a competent and impartial tribunal having jurisdiction of the case. State vs. Smith, 265 N. C. 173, 143 SE 2d. 293 (1965). In substantive law, due process may be characterized as a standard of reasonableness and as such it is a limitation upon the exercise of the police power. Undoubtedly, the state possesses the police power in its capacity as a sovereign, and in the exercise thereof, the legislature may enact laws, within constitutional limits, to protect or promote the health, morals, order, safety, and general welfare of society. If a statute is to be sustained as a legitimate exercise of the police power, it must have a rational, real, or substantial relation to the public health, morals, order, or safety, or the general welfare. State vs. Whitaker, 228 N. C. 352, 45 S. E. 2d 860 (1947), *aff'd*, 335 U. S. 525, 69 S. Ct. 251, 93 L. Ed. 212 (1949) The right to family integrity is one of the most basic rights of our society, but it is not absolute, it must be considered against the important state interest of protecting minor children.

North Carolina's termination of parental rights statute has survived repeated constitutional challenges in the North Carolina appellate courts as well as before this honorable court. Lassiter vs. Department of Social Services of Durham County, 101 S. Ct. 2153 (1981).

The test for fatal vagueness was set forth in In Re Burrus, 275 N. C. 517, 169 S. E. 2d 879 (1969), aff'd. 403 U. S. 528, 91 S. Ct. 1976, 29 L. Ed. 2d 647 (1971) as follows:

A statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law, Cramp vs. Board of Public Instruction, 368 U. S. 278, 7 L. Ed. 2d. 285; 82 S. Ct. 275. Even so impossible standards of statutory clarity are not required by the constitution. When the language of a statute provides an adequate warning as to the conduct it condemns and prescribes boundaries sufficiently distinct for judges and juries to interpret and administer it uniformly, constitutional requirements are fully met. United States vs. Petrillo, 332 U. S. 1, 91 L. Ed. 1877, 67 S. Ct. 1538. A statute must be examined in light of the circumstances in each case, and respondent has the burden of showing that the statute provides inadequate warning as to the conduct it governs or is incapable of uniform judicial administration. State vs. Covington, 34 N. C. App. 457, 238 S. E. 2d 794, review denied, 294 N. C. 184, 241 S. E. 2d 519 (1977).

As the North Carolina Court of Appeals stated in In Re Biggers, 274 S. E. 2d 236 (1981), G. S. 7A-289.32(2) provides that parental rights can be terminated if the child is neglected within the meaning of G. S. 7A-278(4). The applicable definition states that a

"neglected child" is any child who does not receive proper care or supervision, or discipline from his parent, guardian, custodian or other person acting as a parent, or who has been abandoned, or who is not provided necessary medical care or other remedial care recognized under state law, or who lives in an environment injurious to his welfare, or who has been placed for care or adoption in violation of law G. S. 7A-278(4).

Our Court has not found it difficult to give a precise meaning to this definition of a neglected child in particular cases by analyzing the factual circumstances before it and weighing the compelling interest of the State with those of the parents and child. In Re Cusson, 43 N. C. App. 333, 258 S. E. 2d. 858 (1979) Citations omitted. Viewed in this light, G. S. 7A-289.32(2) is not vague because the terms used in G. S. 7A-278(4) are given a precise and understandable meaning by the

normative standards imposed upon parents by our society, and parents are, therefore, given sufficient notice of the types of conduct that constitute child neglect in this state.  
In Re Biggers, 274 S. E. 2d 236 (1981).

Appellant states that the evidence of neglect in Biggers was clear cut and cites as examples the condition of the trailer, the respondent's drinking and drug usage, improper dress of the children and the lack of food. Respondent, the Guilford County Department of Social Services, contends that there are common evidentiary factors in Biggers and the case sub judice such as: both mothers asked the local Department of Social Services to care for their children; both mothers said that the father was the abusive parent; both mothers needed professional psychiatric or psychological help; both mothers had marital difficulties; both mothers had emotional problems; both mothers took inadequate care of their children; both mothers visited the children infrequently while they were in foster care, and both families necessitated the continued supervision of the Department of Social Services. In addition, when these children were adjudicated neglected on December 10, 1974, the Court found as a fact that the mother admitted that she was unable to control the children and make them mind and obey her, and that the parents were incapable of providing the care, training, and supervision to meet the needs of Connie.

Mrs. Moore was made aware of what was expected of her regarding her children. She was told numerous times by the social workers that she was expected to meet certain conditions. During January of 1974, the social worker talked with both Mr. and Mrs. Moore about the need to stabilize their family situation, to secure separate housing, and to have not just separate housing but a stable family situation for a period of several months. By "separate housing," we meant an apartment, a house, a trailer, somewhere that was large enough for the children to have rooms and was maintained for the family unit; not living with another family or relative. Throughout the time that the workers were involved with Mr. and Mrs. Moore, there was counseling in terms of family stability, family organization, and parenting skills. Mrs. Moore was told specifically that it was her responsibility to make certain that the children received proper care and that Mr. Moore did not whip or

hurt them; she was also told that it was her responsibility to check on them if they were hurting. Letters were sent to remind the Moores of medical appointments for Donnie and offering transportation, however, the appointment was not kept. Specific self improvement suggestions were made to Mrs. Moore. In October of 1975, the social worker told Mrs. Moore the specific things that would be required of her before a recommendation could be made to the Court that the children be returned: these requirements were the ceasing of excessive drinking, the stopping of frequent infractions with the law; less marital discord, and the management of a stable household.

The weighing of the facts of this case by the tests of unconstitutionality clearly show that the allegations of unconstitutional vagueness as they relate to G. S. 7A-289.32(2) are totally without merit.

Pursuant to G. S. 7A-289.32(3), an order for termination of parental rights can be entered if the petitioner can show that the parents have

[w]illfully left their children in foster care for more than two consecutive years and it has not been shown to the satisfaction of the Court that substantial progress has been made within two years in correcting the conditions that led to the children's removal for neglect or without showing positive response within two years to the diligent efforts of a county department of social services, a child-caring institution or licensed child placing agency to encourage the parent to strengthen the parental relationship to the child or to make and follow through with constructive planning for the future of the child.

The test is whether the language conveys a substantially definite warning of the prescribed conduct when measured by common understanding and practices. In Re Clark, 303 N. C. 603 (1981). The children were adjudicated neglected on December 10, 1974 and Connie was placed in foster care immediately. Donnie remained in the physical custody of his parents but was removed from them by Court order dated April 8, 1975. Both children have remained in foster care continuously since that time.

Appellant made one effort to get her children returned during their entire stay in foster care and that was in 1975. At the time that the children were adjudicated neglected the Court found that the mother could neither read nor write; that the mother admitted her inability to control the children; that the parents are incapable of providing the care, training, and supervision to meet the daughter's needs. Appellant would have this Court believe that she has made substantial progress in correcting the

conditions that led to the children's removal for neglect yet she stated that she didn't know if she could handle the behavior problems of the children. She was also unsure of her knowledge of how to take care of the childre. She at first stated that she was going to Guilford Technical Institute to learn to read and write which she had been encouraged to do by the social worker in 1974, but she dropped out. Mrs. Moore was still unfamiliar with the children's particular problems and had made no efforts to find out if their educational needs could be met in the area where she lives. She also has not lived alone for any significant period of time in her whole life. Mrs. Moore also stated that she was trying now to exhibit what in her opinion are the qualities of a good parent. She also stated that she knew that she had been a good mother to these children in the last five years, 1975-1980, although she did not see them from July of 1976 through July of 1979. Mrs. Moore was divorced from Bruce Kelly Moore on October 8, 1979, and had lived separate and apart from him for two years before the divorce yet made no attempt to get her children.

The word substantial means not imaginary or illusory, considerable in quantity. Webster's New Collogiate Dictionary (1973) It is not difficult for the Court to analyze the facts and weigh the interests of the parents and children in order to give a precise meaning to the terms of this statute.

G. S. 7A-289.32(4) requires that the Court has to find that the children have been placed in the custody of a county department of social services, a licensed child-placing agency, or a child-caring institution, and the parent, for a continuous period of six months next preceding the filing of the termiantion petition has failed to pay a reasonable portion of the cost of care of the children before an order can be entered upon this particular ground.

This Court has already ruled in In Re Clark 303 N. C. 592, (1981) that the terms of G. S. 7A-289.32(4) are brief and plain in their meaning, and there can be no serious question as to the identification of the three types of institutions listed, the time element involved or the cost of providing foster care for the child. In addition, this Court has stated that a parent's ability to pay is the controlling characteristic of what is a 'reasonable portion' of cost of foster care for the child which the parent must pay. What is within a parent's ability to pay or what is within the 'means' of a parent to pay is a difficulty standard which requires great flexibility in its application. G. S. 7A-289.32(4) requires a parent to pay a reasonable portion of the child's foster care costs. The requirement applies irrespective of the parent's wealth or poverty.

By her own testimony the mother has shown that she has had the ability to pay some support. She had rented her cousin's trailer in West Jefferson in Ashe County since 1976. She receives two hundred and eighteen dollars per month from Social Security. She could afford an \$800.00 annual car insurance premium. She volunteered to pay child support in 1980. She had money to pay for long distance calls from West Jefferson. She paid one hundred and sixty dollars to get from West Jefferson to Winston-Salem for a ride and a cab. She owns two cars and a pick-up truck which she rents for \$50.00 a week. She got these vehicles in the last eight months, and borrowed the money to purchase the car(s) which she has repaid.

As this Court stated in In Re Clark, supra, the provisions of G. S. 7A-289.32(4) are sufficiently definite to be applied in a uniform manner to protect both the State's substantial interest in the welfare of minor children and the parents' fundamental right to the integrity of their family unit.

We find no constitutionally protected conduct here with regard to the respondent-mother's obligation to pay some portion of the foster care cost for her child. Could it reasonably be argued that failure for a continuous period of six months to pay a reasonable portion of the cost of care for one's child which has been placed in the custody of the department of social services for foster care is a constitutionally protected right? Obviously not.

As stated by the N. C. Supreme Court:

the phrase 'reasonable portion of the cost of care for the child' as used in the context of the Act is, by all normal standards, understandable by people of common intelligence without any necessity of guessing as to its meaning or differing as to its application. The phrase contains words of such common usage and understanding as to give parents notice of their responsibilities and of the type of conduct which is condemned, to-wit, failure to provide a reasonable portion of the cost of caring for the child. This phrase also provides boundaries sufficiently distinct that judges may interpret and administer it uniformly. While meeting these standards, it remains sufficiently flexible for application to the great variety of circumstances which will be presented to our courts tomorrow and tomorrow. In Re Clark supra.

In In Re Burrus supra and in In Re Biggers supra, the North Carolina Supreme Court has ruled that G. S. 7A-289.32(3) and (4) are not unconstitutionally vague.

THERE WAS NO IMPERMISSIBLE SHIFTING OF THE BURDEN OF PROOF FROM THE RESPONDENT TO THE APPELLANT.

North Carolina General Statute 7A-289.32(3) reads as follows:

The parent has willfully left the child in foster care for more than two consecutive years without showing to the satisfaction of the court that substantial progress has been made within two years in correcting those conditions which led to the removal of the child for neglect, or without showing positive response within two years to the diligent efforts of a county department of social services, a child caring institution or licensed child placing agency to encourage the parent to strengthen the parental relationship to the child or to make and follow through with constructive planning for the future of the child.

The appellant contends that the statute's requirement that there be a showing by her of a substantial change in the conditions that led to the removal of the children for neglect was an impermissible shifting of the burden of proof. First of all, that element of subsection three of G. S. 7A-289.32 is just one of the things that has to be proved. There has to be clear, cogent, and convincing evidence that

1) the parent has willfully left the child in foster care for more than two consecutive years without showing that substantial progress has been made within two years in correcting the conditions which led to the removal for neglect

OR (emphasis added)

2) without showing positive response within two years to the diligent efforts of a county department of social services to encourage the parent to strengthen the parental relationship to the child or (emphasis added) to make and follow through with constructive planning for the future of the child.

The respondent did not shift the burden of proof but clearly met it in its presentation of the evidence before the trial court.

In the case at hand the trial court based its order terminating respondent's rights on three of the grounds set forth in the statute, (2), (3), and (4). The court concluded as a matter of law (a) that respondent had neglected the children; (b) that she had willfully left the children in foster care for more than two years and substantial progress had not been made to the court's satisfaction in correcting the conditions which lead to the removal of the children; and (c) the children had been placed in the custody of the Department of Social Services and respondent had failed for a period of six months to pay a reasonable portion of the costs of their care. Since respondent did not except to any of the findings they are presumed to be correct and supported by evidence. In the matter of Connie and Donnie Moore, N. C., 293 S. E. 2d. 127 (1982).

The burden of proof was not shifted. The burden on the parent after an adjudication of neglect is to do something to correct the neglectful conditions. This is not a shifting of the burden of proof. The burden on the parent is the burden of action to maintain and improve the parenting and thereby avoid the risk of loss of the child. The expectation of parents to properly care for their children is the burden placed on them by our society and is fundamental to one of our most important institutions, the family.

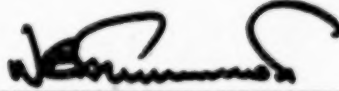
THERE WAS NO DENIAL OF DUE PROCESS BECAUSE THE JUDICIAL REVIEW MANDATED BY G. S. 7A-657 WAS NOT IN EFFECT WHILE THIS CASE WAS PENDING.

G. S. 7A-657 was passed by the 1979 North Carolina General Assembly and was effective January 1, 1980. These children were placed in the custody of the Guilford County Department of Social Services on December 13, 1974 after being adjudicated neglected. The termination of parental rights petition was filed January 21, 1980. There was no statutory requirement to review this case, therefore the appellant's due process rights, neither procedurally or substantively were violated.

CONCLUSION

For the aforestated reasons the Guilford County Department of Social Services contends that Mrs. Moore has suffered no deprivations of her constitutional rights, therefore this court has no jurisdiction to hear this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. B. Trevor', written over a horizontal line.

William B. Trevor  
Guilford County Attorney

CERTIFICATE OF SERVICE

I, William B. Trevorrow, attorney for Appellee in the above-entitled action, do hereby certify that I have served a copy of the foregoing Motion to Dismiss and Response of the Appellee to the Appellant's Jurisdictional Statement on Judith G. Behar, attorney for appellant, M. D. Berry, guardian ad litem, and Rufus L. Edmisten, Attorney General of North Carolina, as follows:

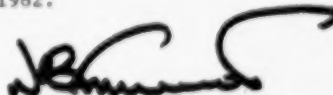
Judith G. Behar  
Attorney at Law  
437 West Friendly Avenue  
Greensboro, N. C. 27401

M. Douglas Berry  
Southeastern Building  
Greensboro, N. C.

By depositing a copy, first-class postage prepaid, in the United States mail addressed to:

Honorable Rufus L. Edmisten, Attorney General  
P. O. Box 629  
Raleigh, N. C. 27602

This the 21st day of December, 1982.



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William B. Trevorrow